

## CHAPTER 5

### ANIMAL MANURE STORAGE ORDINANCE

#### SECTION:

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#### 7-5-1: ANIMAL MANURE STORAGE ORDINANCE ADOPTED

- A. Authority And Name: This Ordinance is adopted under authority granted by § 92.16 Wisconsin Statutes.

This Ordinance shall be known as, referred to, and may be cited as the *GREEN COUNTY ANIMAL MANURE STORAGE ORDINANCE* and is hereinafter referred to as this "Chapter".

- B. Findings And Declaration Of Policy: The Green County Board of Supervisors finds that storage of animal manure in storage facilities not meeting technical design and construction standards may cause pollution of the surface and ground waters of Green County, and may result in actual or potential harm to the health of County residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Green County.

The Green County Board of Supervisors also finds that improper management of animal manure storage facilities, and utilization, including land application of stored animal manure, may cause pollution of the ground and surface waters of Green County.

The Green County Board of Supervisors further finds that the technical standards issued by the U.S.D.A. Natural Resources Conservation Service and developed with the assistance of the interagency Standards Oversight Committee provide effective, practical, and environmentally safe methods of storing and utilizing animal manure.

- C. Purpose: The purpose of this Chapter is to regulate the location, design, construction, installation, operation, alteration and use of animal manure storage facilities, as well as abandonment and the application of manure from these facilities in order to prevent water pollution and thereby protect the health of Green County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Green County. It is also intended to provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

- D. Interpretation: In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- E. Severability Clause: If any section, provision, or portion of this Chapter is ruled invalid by a court, the remainder of the Chapter shall not for that reason be rendered ineffective.
- F. Applicability: This Chapter applies to the unincorporated areas of Green County and to all animal manure storage facilities constructed therein. (Ord. 97-0510, 5-13-1997)

**7-5-2: DEFINITIONS:**

ABANDONMENT:	Any animal manure storage facility not used for that purpose for two (2) consecutive years and is shown to be a potential threat to groundwater or surface water pollution, shall be abandoned following the procedure as stated in standard 313 of Section IV of the Technical Guide.
ANIMAL MANURE:	Excrete from livestock, poultry and other materials, such as bedding, rain or other water, soil, hair, feathers, and other debris normally included in animal manure handling operations.
ANIMAL MANURE STORAGE FACILITY:	Both fabricated and earthen facilities as herein defined.
APPLICANT:	Any person who applies for a permit under this Chapter.
DISCONTINUE OF USE:	A farming operation that has removed the livestock units that were principally using the animal manure storage facility must empty that animal manure storage facility within one hundred twenty (120) days or when land becomes fit based on weather conditions and at such time as the animal manure may be utilized following the nutrient management plan for that farm.
EARTHEN ANIMAL MANURE STORAGE FACILITY:	A facility above or below grade, excavated, or constructed of earth berms or dikes, or utilizing pits, depressions or ponds to contain animal manure and associated liquids for storage which may be lined with earth, nonstructural concrete, or a flexible membrane material for a period of thirty (30) or more days or that has the capacity to store 5,000 cubic feet or more of animal manure.
FABRICATED ANIMAL MANURE STORAGE FACILITY:	A concrete, steel, or otherwise fabricated structure used in storage of animal manure with one or more walls to contain manure and associated liquids for a period of thirty (30) or more days or that has the capacity to store 5,000 cubic feet or more of animal manure.

HIGH GROUND WATER LEVEL:	The higher of either the elevation to which the soil is saturated as observed as a free water surface in an unlined hole, or the elevation to which the soil has been seasonally or periodically saturated as indicated by soil redoxamorphic features throughout the soil profile.
NUTRIENT MANAGEMENT PLAN:	Written plan detailing the amount, form, placement, and timing of application of plant nutrients, including animal manure.
PERMIT:	The signed, written statement issued by the Green County Department of Land Conservation under this Chapter authorizing the applicant to construct, install, construct, abandon, enlarge, or substantially alter an animal manure storage facility and to use or dispose of manure from the facility.
PERMITTEE:	Any person to whom a permit is issued under this Chapter.
PERSON:	Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or State agency within Wisconsin, the Federal government, or any combination thereof.
TECHNICAL GUIDE:	The United States Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service Technical Guide, section IV as adopted by the Green County Land Conservation Committee and the Department of Land Conservation shall provide the minimum guidelines for this ordinance. Any more restricting requirements above and beyond the Technical Guide may be set by Green County for use in this ordinance..
UNCONFINED MANURE STACK:	Any uncontained mechanically deposited animal manure placed on an earthen, concrete, or other surface meeting standard 313 of Section IV of the Technical Guide for a period of less than 30 days and/or having a total accumulation of less than 5,000 cubic feet to facilitate daily or periodic land spreading. These will not be regulated by this ordinance, but may be regulated due to a NR243 Notice of Discharge complaint.
WATER POLLUTION:	Contaminating or rendering unclean or impure the ground or surface waters of the State, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life. (Ord.. 97-0510, 5-13-1997)

### **7-5-3: ACTIVITIES SUBJECT TO REGULATION**

- A. General Requirement: Any person who designs, constructs, installs, reconstructs, enlarges, abandons, or alters an animal manure storage facility; or who employs another person to do the same, on land subject to this Chapter, shall be subject to the provisions of this Chapter.
- B. Compliance With Permit Requirements: A person is in compliance with this Chapter if he or she follows the procedures of this Chapter, receives a permit from the Department of Land Conservation before beginning activities subject to regulation under this Chapter, and complies with the requirements of the permit. (Ord. 97-0510, 5-13-1997)

### **7-5-4: STANDARDS**

- A. Standards For Animal Manure Storage Facilities: The standards for design and construction of animal manure storage facilities are the current standards in Section IV of the Technical Guide, Standards 313 and 634 as it existed on the date of adoption of this Chapter including any and all existing and future standards amended thereto.
- B. Standards For Nutrient Management Plan: The standards for a nutrient management plan shall be as provided in Section IV of the Technical Guide, Standard 590, including any and all existing and future standards amended thereto.
- C. Subsequent Modification Of Standards: The standards of the Technical Guide are adopted and by reference made a part of this Chapter as if fully set forth. Any future amendment, revision or modification of the standards incorporated herein are made a part of this Chapter.
- D. Human Household Wastewater Prohibited: Human household wastewater shall not be discharged into animal manure storage facilities unless provided for through other permitting process outside of this Chapter.
- E. Standards: Any or all standards contained or referenced in this Chapter shall be maintained and available through the Green County Department of Land Conservation. (Ord. 97-0510, 5-13-1997)

### **7-5-5: APPLICATION FOR AND ISSUANCE OF PERMITS**

- A. Permit Required: No person may undertake an activity subject to this Chapter without obtaining a permit from the Department of Land Conservation prior to beginning the proposed activity.
- B. Exception To Permit Requirements: Emergency repairs such as repairing a broken pipe or equipment, leaking dikes, or the removal of stoppages may be performed without a permit. If repairs will significantly alter the original design and construction of the facility, a report shall be made to the Department of Land Conservation within two (2) work days of the emergency for a determination by the Department of Land Conservation on whether a permit will be required for any additional alteration or repair to the facility.

- C. On-Site Investigation Required: Each application for a permit under this Section shall require an on-site inspection prior to issuance and include a summary report of on-site conditions. The site inspection shall be conducted by the Department of Land Conservation staff.
- D. Fee: The nonrefundable fee for a permit under this Chapter shall be twenty five dollars (\$25.00).
- E. Animal Manure Storage Facility Plan And Nutrient Management Plan Required: Each application for a permit under this Section shall include an animal manure storage facility plan and nutrient management plan. The plan shall specify:
1. The number, kinds, and weights of animals for which storage is provided and the duration for which storage is to be provided. Storage volume computations and the storage facility volume shall be provided.
  2. A plan view of the facility and its location in relation to buildings and homes within one thousand feet (1,000) of the proposed facility. The plan view shall be drawn to scale, with a scale no smaller than one inch equals one hundred feet (1" = 100'), the North arrow, scale of drawing, township, range, and quarter - quarter section of the proposed facility, and location, description and elevation of temporary bench mark.
  3. The structural details, load assumptions, design computations, dimensions, cross sections, concrete thickness, reinforcing steel to be used, and facility elevations. The construction and material specifications set forth in Section IV of the Technical Guide including any and all existing and future amendments including, but not limited to, applicable specifications for earthen fill quantities and soil types, excavation quantities and soil types, timber and pipes.
  4. The location of any existing or proposed well within one thousand feet (1,000) of the facility.
  5. The soil test pit locations and soil descriptions to a depth of at least five feet (5') below the planned bottom of the facility. Surface elevation of soil test pits shall be provided. Also results of any laboratory tests performed on the soils shall be provided.
  6. The elevation of high ground water level or bedrock if encountered in the soil profile and the date of any such determinations.
  7. Provisions for adequate drainage and control of runoff to prevent pollution of surface water and ground water. If a navigable body of water lies within five hundred feet (500') of the facility, the location and distance to the body of water shall be shown.
  8. A time schedule for construction of the facility.
  9. A description of the method and materials proposed in transferring animal manure into and from the facility.

10. A nutrient management plan for utilization of the animal manure, including, but not limited to, the amount of land available for application of manure, identification of the areas where the manure will be used, soil types and any limitations on manure application due to soil limitations, crop rotations, type and proximity of bedrock or water table, slope of land, and proximity to surface water. The nutrient management plan is required to ensure that suitable acreage is available for land application and crop uptake of manure nutrients.
  11. An operation and maintenance plan, operating safety provisions, and details of the manure transfer system, including, but not limited to, materials quality, shall be provided.
  12. The type of fencing to be used around the facility. Fencing shall be a minimum of eleven (11) gauge, forty-seven (47) inch woven wire with at least one barbed wire above it **or** nine (9) gauge, fifty-two (52) inch woven livestock panels, **or** eleven and one-half gauge chain link no less than forty-eight (48) inches high **or** any other fence that will provide greater protection. The facility shall be posted for ~~No~~ Trespassing+and/or ~~Warning~~+**MANURE STORAGE FACILITY**. These signs shall be spaced at intervals of no more than two hundred (200) feet.
- F. Written Approval From Green County Zoning: Each application for a permit under this Section shall include written approval from the Green County Zoning Department.
- G. Review Of Application: The Department of Land Conservation shall receive and review all permit applications and shall determine if the proposed facility meets required standards set forth in Section 7-5-4 of this Chapter. Within thirty (30) working days after receiving the completed application and fee, the Department of Land Conservation shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the Department of Land Conservation shall notify the permit applicant. The Department of Land Conservation shall have thirty (30) working days from the receipt of the additional information in which to approve or disapprove the application. No construction may commence without the final approval by the Department of Land Conservation. If after thirty (30) days the Department of Land Conservation has not responded, the application is considered approved and may go ahead with the project. If the plan is to be reviewed by the Natural Resources Conservation Service, Department of Natural Resources, or Department of Agriculture, Trade and Consumer Protection, another thirty (30) working days is needed.
- H. Permit Conditions: All permits issued under this Chapter shall be issued subject to the following conditions and requirements:
1. Animal manure storage facility design and construction, management, and utilization activities shall be carried out in accordance with the animal manure facility plan and applicable standards specified in Section 7-5-4 of this Chapter.
  2. The permittee shall give two (2) working days' notice to the Department of Land Conservation before starting any construction activity authorized by the permit.
  3. Approval in writing must be obtained from the Department of Land Conservation prior to any modifications to the approved animal manure facility plan.
  4. The permittee and, if applicable, the contractor, shall certify in writing that the facility was installed as planned.

5. The Department of Land Conservation staff may conduct on-site inspections before, during and after construction.

Activities authorized by permit must be completed within two (2) years from the date of issuance after which such permit shall be void. (Permit for construction may also be subject to County Zoning Ordinance time limitations.)

- I. Permit Revocation: The Department of Land Conservation may revoke any permit issued under this Chapter if the holder of the permit misrepresents any of the materials to be used for constructing and/or reconstructing the animal manure facility, misrepresents the plans of the animal manure facility, makes statements within the permit application which misrepresent the facts, or if the holder of the permit violates any of the conditions of the permit. The permittee shall be immediately notified of the revocation in writing giving reason(s) for the revocation. (Ord. 97-0510, 5-13-1997)

#### **7-5-6: ADMINISTRATION**

- A. Delegation Of Authority: Green County Board of Supervisors hereby designates the Green County Department of Land Conservation to administer and enforce this Chapter.
- B. Administrative Duties: In the administration of this Chapter, the Department of Land Conservation shall:
  1. Keep an accurate record of all permit applications, animal manure facility plans, permits issued, inspections made, and other official actions.
  2. Review permit applications and issue permits in accordance with Section 7-5-5 of this Chapter.
  3. Inspect animal manure storage facility construction to ensure the facility is being constructed according to plan specifications.
  4. Investigate complaints relating to compliance with this Chapter.
  5. Perform other duties as specified in this Chapter.
- C. Design and Construction Plan Approval: Storage facility design and construction plans may be provided through the Department of Land Conservation, cooperating members or County, State, or Federal government agencies, and private consultants. Private consultants shall be registered professional engineers, licensed in the State of Wisconsin. Storage facility designs, construction plans, and specifications utilizing preapproved or prequalified Natural Resources Conservation Service plans must be prepared by a registered professional engineer, licensed in the State of Wisconsin. The approval of preapproved or prequalified plans must state that plan meets the requirements of this Chapter. Construction plans utilizing a preapproval or prequalified plan must be adapted to fit site conditions making it comply with Standard 313.
- D. Inspection Authority: The Department of Land Conservation is authorized to enter upon any lands affected by this Chapter to inspect the land prior to or after permit issuance to determine compliance with this Chapter. If permission cannot be received from the

applicant or permittee, the permit may be denied or entry by the Department of Land Conservation shall be in accordance with §92.07(14) Wisconsin Statutes.

- E. **Enforcement Authority:** The Department of Land Conservation is authorized to post an order stopping work upon land which has had a permit revoked or on land in violation of this Chapter. Notice is given by both posting upon the land where the violation occurs one or more copies of a poster stating the violation, and by mailing a copy of the order by certified mail, return receipt requested, to the person whose activity is in violation of this Chapter. The order shall specify that the activity must cease immediately and be brought into compliance within five (5) working days.

Any permit revocation or order stopping work shall remain in effect unless retracted by the Department of Land Conservation, or until the activity is brought into compliance with this Chapter. The Department of Land Conservation is authorized to refer any violation of this Chapter or of any order stopping work issued pursuant to this Chapter to the District Attorney for commencement of further legal proceedings. (Ord. 97-0510, 5-13-1997)

#### **7-5-7: VIOLATIONS**

- A. **Penalties:** Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be subject to subsection 7-4-31C of this Title which is a Class Three forfeiture plus costs for each violation. An unlawful violation includes, but is not limited to, failure to comply with any standard of this Chapter, failure to comply with any condition or qualification attached to the permit, or misrepresentations in obtaining the permit. Each day that a violation exists shall be a separate offense. Citations for a violation may be written by the Green County Sheriff, deputy sheriffs, an authorized Department of Natural Resources employee, or the Green County Department of Land Conservation employees. (If a citation is issued, all construction, repair or other work on the facility shall cease, except for correction of the violation, until the corrections or violations are remedied.)
- B. **Enforcement Of Injunctions:** As a substitute for or as an addition to forfeiture actions, Green County may seek enforcement by injunction order at the suit of the County or the owner or owners of the land within the district affected by the regulations of this Title. (Ord. 97-0510, 5-13-1997)

#### **7-5-8: APPEALS FROM ADMINISTRATIVE DECISIONS**

- A. **Authority:** The Green County Land Conservation Committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by Department of Land Conservation staff in administering this Chapter.
- B. **Procedure:** Any appeal shall be made by written request, mailed or delivered to the Green County Land Conservation Committee, c/o Department of Land Conservation, 2841 6th Street, P.O. Box 497, Monroe, WI 53566. The request shall state the ground or grounds upon which it is contended that the decision should be modified or reversed. The appeal shall be heard within sixty (60) days of the date the appeal is filed with the Department. A copy of the meeting notice shall be sent to the applicant and the appropriate town Board. The Department shall transmit to the Committee all documents constituting the record from



which the appeal was taken. The Committee shall issue a written decision regarding the appeal within sixty (60) days after the appeal hearing.

- C. Statutory Administrative Review And Certiorari: The decision of the Green County Land Conservation Committee shall be subject to further administrative review by the Green County Board of Adjustment if a written appeal seeking such review is filed within thirty (30) days after the decision of the Committee. The decision of the Board of Adjustment shall be subject to judicial review if, within thirty (30) days after the decision of the Board of Adjustment, an action seeking the remedy available by certiorari is commenced, as authorized by this County Code and §59.694 of the Wisconsin Statutes. (Ord. 97-0510, 5-13-1997)